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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-928

Uncovered Innerspring Units from the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Leggett & Platt Incorporated (“Petitioner”), the Department of Commerce (“the Department”) is initiating an anticircumvention inquiry pursuant to section 781(b) of the Tariff Act of 1930, as amended (“the Act”), to determine whether certain imports are circumventing the antidumping duty order on uncovered innerspring units (“innerspring units”) from the People's Republic of China (“PRC”).¹

DATES: Effective Date: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

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SUPPLEMENTARY INFORMATION:

¹ See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) (“Order”).

Background

On December 31, 2007, Petitioner filed a petition seeking imposition of antidumping duties on imports of uncovered innerspring units from, among other countries, the PRC.² Following completion of an investigation by the Department and the U.S. International Trade Commission (“the Commission”), the Department imposed an antidumping duty order on subject merchandise.³

In the fourth administrative review of the *Order*,⁴ Petitioner requested that the Department review Goldon Bedding Manufacturing (M) Sdn. Bhd (“Goldon”).⁵ The Department initiated the review on March 29, 2013⁶ and sent questionnaires to the named respondents, including Goldon. On August 19, 2013, in response to the Department’s supplemental questionnaire, Goldon acknowledged that it imports innerspring unit components from the PRC for use in the production of innerspring units in Malaysia.⁷ On September 19, 2014, the Department applied adverse facts available to all of Goldon’s PRC-origin subject merchandise upon determining that Goldon did not cooperate to the best of its ability in the review.⁸

On November 7, 2014, pursuant to section 781(b) of the Act and section 351.225(h) of the Department’s regulations, Petitioner submitted a request for the Department to initiate an

² The petition also included imports of uncovered innerspring units from South Africa and the Socialist Republic of Vietnam. *See Uncovered Innerspring Units from the People’s Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4817 (January 28, 2008).

³ *Order*, 74 FR at 7662.

⁴ The fourth administrative review covered the period of review (“POR”) February 1, 2012, through January 31, 2013. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013) (“*Initiation Notice*”).

⁵ The Department notes that Petitioner requested an administrative review and anticircumvention inquiry of “Goldon Bedding Manufacturing Sdn Bhd.” However, during the 2012-2013 administrative review, Goldon provided its business license which indicated that the company’s official name is “Goldon Bedding Manufacturing (M) Sdn Bhd.” *See Uncovered Innerspring Units from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 56338, 56339 (September 19, 2014) and accompanying Issues and Decision Memorandum (“*Final Results*”), at 1.

⁶ *See Initiation Notice*, 78 FR at 19208.

⁷ *See Uncovered Innerspring Units from China: Request for a Circumvention Inquiry*, dated November 7, 2014, at 3 (“*Circumvention Request*”).

⁸ *See Final Results*, 79 FR at 56339.

anticircumvention inquiry of Goldon to determine whether Goldon's innerspring units completed and assembled in Malaysia from PRC-origin components constitute circumvention of the *Order*.⁹ In its request, Petitioner contends that Goldon, by its own admission, imports innerspring unit components from the PRC to Malaysia, further assembles these components into uncovered innerspring units, and exports the assembled innerspring units to the United States in the form of subject merchandise.¹⁰ Petitioner argues that Goldon's operations constitute minor further assembly in a third country, *i.e.*, Malaysia.

Scope of the Order

The merchandise subject to the order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.*, twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring. Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual

⁹ See *generally* Circumvention Request.

¹⁰ *Id.*, at 3.

coils covered by a “pocket” or “sock” of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Initiation of Circumvention Proceeding

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, the Department will also evaluate whether: (1) the process of assembly or completion in the other foreign country is minor or insignificant; (2) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (3) action is appropriate to prevent evasion of such an order or finding. As discussed below, Petitioner has provided evidence with respect to these criteria.

A. Merchandise of the Same Class or Kind

Petitioner argues that the innerspring units that Goldon completes or assembles in Malaysia and subsequently ships to the United States are of the same class or kind as that subject to the *Order*. Petitioner contends that there is no question that the uncovered innerspring units that Goldon exports to the United States meet the physical characteristics that define the scope of

the order.¹¹ Goldon acknowledged this fact in the fourth administrative review when it stated: “{y}es, merchandise as stated in the database are the subject merchandise that {sic} comprised from locally source {sic} material and imported material from PRC.”¹²

B. Completion of Merchandise in a Foreign Country

Petitioner observes that the *Order* clearly indicates that innerspring units are assembled from three key components: steel wire coils, helical wires, and in certain cases border rods.¹³ Petitioner argues that Goldon admitted that it imports the key inputs used in the production of innerspring units and provided invoices describing the components as “spring mattress coils,” “wire,” “steel frame,” and “steel strips.”¹⁴ Furthermore, Petitioner contends that Goldon indicated that 70 percent of its materials used in the production of innerspring units are sourced from the PRC, the country with respect to which the *Order* applies, and that it “shipped the completed merchandise into the U.S.”¹⁵

C. Minor or Insignificant Process

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion of merchandise in a foreign country is minor or insignificant. Petitioner believes that an examination of these factors indicates that Goldon’s process of assembly and completion of innerspring units in Malaysia is not significant.

¹¹ *Id.*, at 7-8.

¹² *Id.*, at 8; and Exhibit 1, at 2.

¹³ See Circumvention Request at 8. The Commission also noted that innerspring coils and border rods are major components of an innerspring unit. See *Uncovered Innerspring Units from South Africa and Vietnam*, USITC Pub. 4051, Inv. Nos. 731-TA-1141-1142 at I-11 (December 2008) (hereinafter, “*USITC Uncovered Innersprings Report*”). In its final determination regarding imports of uncovered innersprings from the PRC, the Commission adopted the findings and analyses in its determinations and views regarding subject imports from South Africa and Vietnam with respect to the domestic like product, the domestic industry, cumulation, and material injury.

Uncovered Innerspring Units from China, USITC Pub. 4061, Inv. No. 731-TA-1140 at 3 and I-1 (February 2009).

¹⁴ See Circumvention Request, at 9; and Exhibit 2, at Attachment 2.

¹⁵ *Id.*, at 9, 15 and Exhibit 2, at Attachment 2.

(1) *Level of Investment*

Petitioner states that the process employed to assemble innerspring components into innerspring units is relatively simple and requires only limited investment and labor, and that the start-up investment costs and the barriers to entry into this type of assembly operation (*i.e.*, manual or semi-automated) are low.¹⁶ Petitioner asserts that in the most basic, fully-manual operation, coils are assembled manually using a wooden or steel jig in which the coils (continuous or bonnell)¹⁷ are hand-loaded, then hand-laced with helical wire and finished by clipping the border rods to the unit.¹⁸ Petitioner posits that the cost of a new wooden (or steel) jig is approximately \$200-\$400.¹⁹ Petitioner argues that the level of investment would also be low if Goldon relies on a semi-automated assembly operation where a machine is used to assemble the rows of coils.²⁰

(2) *Level of Research and Development*

Petitioner is not aware that Goldon performs any research and development related to the assembly and/or production of innerspring units.²¹ Moreover, Petitioner states that it would not expect Goldon to incur any research and development expenses related to its innerspring assembly operations.²²

¹⁶ See Circumvention Request, at 10.

¹⁷ Bonnell coils, the most commonly used type of coils in innerspring units, have an hour-glass shape which tapers inward from top to center and then outward from the center to bottom. Bonnell coils are generally the lowest priced units and the type of coil generally used in imported innerspring units. Continuous coils have entire rows of continuous coils formed from a single piece of wire. For a more detailed description of the types of innerspring coils, see *USITC Uncovered Innersprings Report* at I-8 to I-10.

¹⁸ See Circumvention Request, at 10. A somewhat more advanced assembly operation may involve manual assembly using a wooden or steel jig in which the coils are hand-set, and a lacing machine is used to feed the helical to join the rows, and then the borders are manually clipped to the unit. *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*, at 11.

²² *Id.*

(3) *Nature of the Production Process*

According to Petitioner, the manufacturing process for assembling innerspring units from imported components is relatively simple and does not require significant start-up costs, sophisticated machinery and inputs, or substantial labor.²³ This process, as described by Goldon, is very similar to the process found to be insignificant by the Department in the prior circumvention inquiry on this *Order*.²⁴

(4) *Extent of Production in the Malaysia*

Petitioner states that Goldon only has one facility for the production of innerspring units.²⁵ Goldon indicated that six to seven workers are involved in the assembly of innerspring units, with another one or two workers devoted to packing.²⁶ Petitioner contends that this indicates that the portion of Goldon's production facility attributable to assembly operations is small.²⁷

(5) *Value of Processing in Malaysia as Compared to Uncovered Innerspring Units Imported Into the United States*

Petitioner asserts that the value of assembly processing performed in Malaysia represents a small portion of the total value of the innerspring units imported into the United States.²⁸ Petitioner believes Goldon's assembly operations likely rely on relatively unskilled, low wage employees.²⁹ Thus, these assembly operations involve minimal additional labor costs.³⁰

²³ *Id.*

²⁴ See Circumvention Request, at 11; see also *Uncovered Innerspring Units from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 79 FR 3345 (January 21, 2014) ("Reztec Final Determination").

²⁵ See Circumvention Inquiry, at 12.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*, at 13.

²⁹ *Id.*

³⁰ *Id.* There are virtually no additional energy costs given that the machines, if utilized, are quite basic. The only additional material inputs (besides the coils, which represent the single largest cost of an innerspring unit) are steel wire for lacing and border clips. *Id.*

Petitioner asserts that, by any standard, the assembly operations represent an insignificant portion of the total value.³¹

D. Value of Merchandise Produced in PRC

Petitioner argues that the value of the components that Goldon imports from the PRC for further assembly in Malaysia into subject merchandise is a significant portion of the total value of the innerspring units exported to the United States.³² As Petitioner noted previously, innerspring coils, helical wires, and border rods are the key components of an innerspring unit. Petitioner explains that they also constitute a significant portion of the overall costs of an innerspring unit.³³ Petitioner does not have access to other PRC innerspring unit producer/exporter costs. Therefore, it conducted an analysis related to the production costs of various innerspring unit models at its own facility in Guangzhou, PRC. Petitioner believes that its operation (and costs) in the PRC are representative of the operations (and costs) of other PRC innerspring unit producers/exporters, as it is the largest producer of innersprings in the PRC.³⁴ According to Petitioner's analysis of its own production costs in the PRC, the total value of these innerspring components compose a significant portion of the total value of an innerspring unit.³⁵

E. Additional Factors for Consideration

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Order*. Petitioner believes that an examination of these factors supports finding that Goldon's Malaysian exports of innerspring units should be within the scope of the *Order*.³⁶

³¹ *Id.*

³² *Id.*, at 14.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*, at 14-15.

³⁶ Petitioner did not analyze or submit evidence concerning affiliation under section 781(b)(3)(B) of the Act.

(1) *Pattern of trade*

Goldon has stated that while it was originally set up to supply the domestic market, in 2011 it changed its business strategy to serve the United States.³⁷ As described by Goldon, this strategy consists of assembling innersprings from 70 percent PRC-origin components and 30 percent Malaysian components, and exporting the assembled innerspring units to the United States.³⁸

Based on official U.S. import data, Petitioner contends that imports of uncovered innerspring units from Malaysia have increased dramatically since the *Order* was imposed.³⁹ Petitioner provided a chart that illustrated the U.S. annual imports from Malaysia under the relevant HTSUS subheadings.⁴⁰ Petitioner states that prior to 2009, there were virtually no imports of uncovered innerspring units from Malaysia to the United States.⁴¹ However, according to the chart, subject imports from Malaysia to the United States have steadily increased: 185,917 pieces were imported in 2009; 312,317 pieces were imported in 2010; 344,388 pieces were imported in 2011; 132,017 pieces were imported in 2012; and 52,051 pieces were imported in 2013.⁴² Petitioner claims that the lower overall entry quantities over the last two years are due to the previous anticircumvention inquiry filed by Petitioner in 2012.⁴³

³⁷ *Id.*, at 15.

³⁸ *Id.*

³⁹ See Circumvention Inquiry, at 15-16. Petitioner states that until 2011, U.S. imports of uncovered innerspring units were properly classified and entered the United States under harmonized tariff schedule (“HTS”) 9404.29.9010 (“uncovered innerspring units”). In 2011, the HTS classification for uncovered innerspring units was refined and further broken out to provide a separate ten-digit classification for innerspring units used in cribs and toddler beds. Thus, HTS 9409.29.9010 was eliminated and replaced with 9404.29.9005 (Uncovered innerspring units: For use in a crib or toddler bed) and 9404.29.9011 (Uncovered innerspring units: Other).

⁴⁰ *Id.*, at 17.

⁴¹ *Id.*, at 16.

⁴² *Id.*, at 17.

⁴³ *Id.*

Petitioner notes that quantities of imports after 2012, while not as high as the immediately preceding years, are still significant compared to before the *Order* was in place.⁴⁴

Furthermore, Petitioner contends that Malaysia's official import statistics indicated that imports from the PRC of one of the key components in innerspring units (*i.e.*, coils) have increased substantially since the *Order* was imposed.⁴⁵ Petitioner provided a chart of import data related to Malaysia's imports of coils from the PRC over the last several years, as well as the current year under HTS 7320.99.000 (other springs and leaves for springs, of iron/steel, kilograms ("kgs")). This chart shows an increase of imported coils from 2,995,519 kgs in 2007 to 11,972,478 kgs in 2011, and a gradual decrease to 5,218,789 kgs for the current year.⁴⁶ Again, Petitioner notes that imports have somewhat declined starting in 2012, which may be due to the Department's determination in the previous anticircumvention inquiry filed by Petitioner.⁴⁷ Nevertheless, Petitioner contends that imports of coils from the PRC remain higher than before the *Order* was in place.⁴⁸

(2) *Increase of Subject Imports from the PRC to Malaysia After the Investigation Initiation*

Petitioner did not provide any evidence regarding an increase in subject imports (*i.e.*, completed uncovered innerspring units) from the PRC to Malaysia after the initiation of the investigation. However, as noted above, Petitioner provided information that imports of one of the key components of innerspring units from PRC to Malaysia increased significantly during this time.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* Petitioner also provided a description of Malaysia's relevant HTS numbers. *Id.*, at Exhibit 7.

⁴⁷ *Id.*; see also *Reztec Final Determination*, 79 FR 3345 and accompanying Issues and Decision Memorandum. Petitioner did not submit any Malaysian import statistics regarding imports of helical wires and border rods from the PRC.

⁴⁸ *Id.*

F. *Whether Action Is Appropriate To Prevent Evasion of the Order*

Based on the information provided by Petitioner, and for the reasons provided in the analysis below, the Department determines that initiating an anticircumvention inquiry is appropriate to identify any potential evasion of the *Order*.

Analysis of the Request

Based on our analysis of Petitioner's circumvention inquiry request, the Department determines that Petitioner has satisfied the criteria under section 781(b)(1) of the Act to warrant an initiation of a formal circumvention inquiry.⁴⁹ In accordance with section 351.225(e) of the Department's regulations, the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of a circumvention inquiry.

In accordance with section 351.225(l)(2) of the Department's regulations, if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise. This circumvention inquiry covers Goldon. If, within sufficient time, the Department receives a formal request from an interested party regarding potential circumvention of the *Order* by other Malaysian companies, we will consider conducting additional inquiries concurrently.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 351.225(f)(5) of the Department's regulations, the Department intends to issue its final determination within 300 days of the date of publication of this

⁴⁹ *Id.*, at 7-17.

initiation, in accordance with section 781(f) of the Act. This notice is published in accordance with section 351.225(f) of the Department's regulations.

Dated: December 22, 2014.

Christian Marsh,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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